IN THE HIGH COURT OF JUDICTURE FOR RAJASTHAN AT JODHPUR.

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Naresh Kumar. Versus State of Rajasthan & ors.

S.B. Civil Writ Petition No. 412/2006

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Date of Order: January 04, 2007

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. R.S. Saluja, for the petitioner.
Mr. Rameshwar Dave, Deputy Govt. Advocate.

BY THE COURT:

By the instant writ petition under Article 226 of the Constitution of India, the petitioner seeks a direction to the non-petitioners to provide him appointment on the post of Teacher Grade II with effect from the date appointment was given a less meritorious person, with all consequential benefits.

I have heard learned counsel for the parties.

Learned counsel for the petitioner submits that the controversy involved in the instant writ petition stands squarely covered by a decision of this Court in S.B. Civil Writ Petition No.6406/2005, Piyush Gadiya & ors. Vs. State & ors. decided on

15-9-2006. Learned Deputy Government Advocate appearing for the State does not dispute this proposition.

The facts and circumstances giving rise to the instant writ petition are that the petitioner obtained B.Ed. Bal Vikas qualification along with Bridge Course from Rajasthan Vidhyapeeth, Udaipur, which according to the learned counsel, is equivalent to B. Ed. Degree as held by a Division Bench of this Court in State of Rajasthan & ors. Vs. Karan Singh Rathore & ors., 2002 (1) WLC 445. In pursuance to the advertisement issued in the year 2003 for recruitment on the posts of Teacher Grade II, the petitioner submitted his application. The petitioner is higher in merit, however, he has been denied consideration for appointment on the ground that the decision of the Division Bench in Karan Singh's case (supra) has been challenged before the Hon'ble Supreme Court. Learned counsel submits that the SLP filed by the State against the decision of the Division Bench in Karan Singh's case (supra) has been dismissed by the Hon'ble Supreme Court and, therefore, the petitioner is entitled for consideration for appointment on the post of teacher Grade II.

The qualification of B.Ed. Degree in Bal Vikas along with Bridge Court from Rajasthan was declared as the qualification equivalent to Bachelor of Education Degree by this Court in Karan Singh Rathore & ors. Vs. State of Rajasthan & ors. (supra) way back in the year 2001. The decision of the

learned Single Judge in Karan Singh Rathore's case (supra) came to be challenged by the State of Rajasthan before a Division Bench of this Court and the Division Bench affirmed the decision of the learned Single Judge in State of Rajasthan & ors. Vs. Karan Singh Rathore & ors. (supra). The SLP against the decision of the Division Bench, as stated by the learned counsel for the parties, has also been dismissed by the Hon'ble Supreme Court. Thus, the qualification possessed by the petitioner is equivalent to the B.Ed. Degreee and, therefore, non-consideration of the case of the petitioner by the non-petitioners on the ground that the qualification possession by the petitioner is not the recognized qualification, or is not equivalent to B.Ed. Degree, is erroneous. The petitioner possesses the qualification equivalent to B.Ed. Degree and as such entitled to be considered for appointment on the post of teacher Grade II under the Rajasthan Education Subordinate Service Rules, 1971.

In view of the aforesaid discussion, the writ petition is allowed; the non-petitioners are directed to consider the candidature of the petitioner for the purpose of appointment on the post of Senior Teacher Grade II in pursuance to the advertisement dated 19-8-2003 and in the event the petitioner is otherwise found suitable to be appointed and if any person having less merit than the petitioner is given appointment, the petitioner shall be given appointment on the said post. The non-

petitioners are directed to make the entire exercise in the above terms within the period of three months. The stay petition stands disposed of. There shall be no order as to costs.

(H.R. PANWAR), J.

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